

Madison Kipp/WDNR Enforcement and Potential Drinking Water Impacts

Key Message: LCD, in consultation with ORC, is planning to notify Madison Kipp Corporation (Kipp) that EPA has classified Kipp's Madison, Wisconsin plant as a "complex site" and will require Kipp to submit an application to LCD regarding PCB clean-up. WDNR requested EPA's assistance in addressing PCB contamination at the Madison site in 2013.

- The PCB contamination and tetrachloroethylene (perc) plume are located within one third of a mile from a Madison drinking water source. However, the city and state are well aware of the situation and there are plans to monitor the perc plume to ensure citizens are not exposed.
- EPA was ultimately excluded from settlement negotiations between Kipp and WDNR to resolve PCB violations identified at the Madison site and has concerns that not all violations or issues will be properly addressed as part of that settlement.
- LCD is prepared to quickly respond to Kipp's application to remediate PCB contamination at the site and is working with WD to identify possible remedies to address the perc plume.

Background: Kipp is an aluminum die caster located in a residential neighborhood in Madison, Wisconsin. In 2013, WDNR requested help from EPA because Kipp was refusing to address PCB contamination as a part of its ongoing corrective actions. EPA staff conducted an inspection under TSCA which resulted in Kipp proceeding with PCB remediation. As a part of remediation, sampling revealed a large area of PCB contamination beneath the plant, reaching concentrations of 20,000 ppm with much lower concentrations approaching groundwater. Since removal would require closure of the plant, EPA and WDNR agreed that Kipp could continue to operate, provided they monitor groundwater. The Agencies agreed to establish a "triggering event" that would require Kipp to conduct a removal. WDNR and EPA began working on a joint settlement of Kipp's PCB violations including establishment of a trigger; however, in negotiations Kipp did not agree to the recommended trigger and in June of 2017, EPA was notified by WDNR that Kipp had ceased joint negotiations would be negotiating a settlement with WDNR. EPA was required to wait for completion of the WDNR settlement before continuing discussions with Kipp on meeting TSCA requirements.

On November 27, 2017, the WDNR settled its enforcement case with Kipp. EPA staff are reviewing the settlement and intend to inform Madison-Kipp that we are prepared to accept and review the TSCA approval request that Kipp will be submitting.

Background on USEPA & WDNR MOA

- USEPA and WDNR entered into a Once Cleanup Program MOA in 2006 which recognizes that standards and processes under NR 140 and 720 of Wisconsin Administrative Code will result in cleanups that meet the objectives of TSCA Section 6(e) for sites subject to the MOA.

- For sites of limited complexity, the MOA provides a process for an expedited coordinated review and approval under TSCA.
- For complex sites, the responsible party may still apply to U.S. EPA Region 5 for a TSCA Coordinated Approval under 40 CFR §761.77, but the application will not be subject to the expedited review process established in this MOA.
- A responsible party also has the option to request USEPA TSCA approvals independent of the MOA under the self-implementing or risk-based disposal regulations at §§761.61(a) and (c).
- For PCB remedial sites proceeding under a TSCA Coordinated Approval process with WDNR, RRB typically coordinates with WDNR Project Manager prior to WDNR's issuance of state remedial approval. This is done to ensure USEPA is comfortable with the proposed PCB remedy developed by the WDNR under EPA's recognition of the state regulations. This approach expedites USEPA's TSCA Coordinated Approval of the WDNR enforceable decision document.
- USEPA retains the ability to add conditions to the federal TSCA approval beyond those that the State approval has required, although we have not done so to date.
- RRB has not to this point issued a TSCA Coordinated Approval or a Risk-Based Approval to a party that has reached a settlement with the State of Wisconsin.

RRB Anticipated Process for Madison-Kipp

- RRB will notify Madison-Kipp of their requirement to request and obtain USEPA approval under the TSCA Coordinated Approval regulations at §761.77 or the Risk-Based Disposal Approval regulations at §761.61(c) to address the PCB issues at the facility.
- RRB will request Madison-Kipp provide additional supporting technical information as needed to support their TSCA approval request.
- RRB will review the portions of the State settlement pertaining to PCB contamination.
- Based on this review, RRB will determine if conditions above and beyond those of the state settlement are needed in the federal TSCA approval related to a no unreasonable risk determination for on-site disposal of PCB under 40 CFR §§761.77 or 761.61(c).